

REMARKS

Applicant respectfully requests consideration of the following remarks. Any reference to ‘Office Action’ herein refers to the non-final office action mailed April 18, 2006.

Rejections Under 35 U.S.C. § 103

In the Office Action, claims 1-31 stand rejected under 35 U.S.C. 103 as being unpatentable over Griggs (2002/0029384) in view of Ellis et al (6,774,926) (hereinafter, ‘Ellis’). The office action asserts that Griggs discloses applicant’s claims 1-3, except that Griggs “fails to explicitly teach where the custom channel is create[d] by the user”, (office action, page 3, paragraph 1). However, the office action asserts that Ellis “discloses personal television channel system, which permits a viewer or contributor to create a personal channel(s)”, (office action, page 3, paragraph 2). Applicants respectfully submit that the office action misconstrues the disclosure of Ellis, and in fact, the combined references fail to disclose at least applicant’s recited claim limitation of “the custom channel created by the customer”.

Applicant’s independent claim 1 recites, “the custom channel created by the customer”. The Office Action explicitly concedes that Griggs fails to disclose this limitation, but asserts that Ellis discloses the limitation. However, Ellis explicitly and repeatedly describes contributors *creating content* that may be added to an already existing ‘personal channel’, and fails to disclose or describe creating a custom channel. *Creating content* is not the same as creating a ‘custom channel’, and Ellis explicitly

distinguishes one from the other. Therefore, like Griggs, Ellis utterly fails to describe applicant's recited claim limitation of "the custom channel created by the customer".

As set forth in the Ellis 'BACKGROUND OF THE INVENTION' section:

This invention relates . . . particularly, to television systems in which individual *contributors* may *make their own videos* available to viewers through a communications network such as the Internet. [] It is therefore an object of the present invention to provide systems and methods that support *the creation and distribution of videos [sic] programming created by individual contributor*, (Col. 1, lines 9-12 and 19-22) (emphasis provided).

Thus, the Ellis invention relates to the creation of videos (content) by contributors, and distribution of such content, but fails to describe a 'custom channel created by the customer' according to applicant's independent claim 1. Ellis describes actions on the content 'push' side, including creating and making content available for any and all viewers, while applicant's claims are concerned with the demand side, relating to a customer of a broker wherein the customer creates a custom channel, and the broker transmits the custom channel to the customer.

Several sections of Ellis support applicant's arguments and refute the assertions of the office action. For example, Ellis describes that "[a]n individual at home or at another suitable location may use user equipment 34 to *create content* for a personal television program or channel", (col. 3, lines 19-21) (emphasis added). Thus, Ellis explicitly distinguishes 'content' from a 'personal television or channel', describing that an individual creates content, and that the content is for a personal program or channel, but fails to describe creating a channel, particularly a custom channel. Likewise, according to Ellis, "Various types of user equipment may be used by contributors to create video programming for personal television channels", (col. 5, lines 15-17), and a "[v]ideo camera 66 may be used to capture video programming for a personal television channel",

(col. 5, lines 23-24). Again, Ellis describes “contributors” creating and/or capturing video programming *for* a personal television channel, thereby distinguishing a ‘personal channel’ from the content created for a personal channel, and failing to disclose applicant’s recited claim limitation of a ‘custom channel created by the customer’.

In summary, Ellis fails in numerous ways to disclose applicant’s recited claim limitation of a ‘custom channel created by the customer’: (1) Ellis describes that the contributors create content (videos), but fails to describe that they create a ‘custom channel’; (2) Ellis describes that contributors create *content for* personal television channels, thereby distinguishing the ‘content’ from the channels, and completely failing to disclose *creating a “custom channel”*; and (3) Ellis fails to disclose that the described contributors are ‘customers’ of a broker, and so in addition to failing to disclose creating a custom channel, also fails to disclose a custom channel created *by a customer* of a broker.

Because Ellis fails to supply at least applicant’s recited claim limitation of a ‘custom channel created by the customer’ admitted in the office action to also be missing from Griggs, the combined references also fail to teach or render obvious at least applicant’s recited claim limitation of “custom channel created by the customer” in independent claim 1, as well as dependent claims 2-3 which depend from and include the distinguishing limitation(s) recited in independent claim 1.

As to claims 4-5, these claims depend from and include the limitations of independent claim 1, and are distinguished from and patentable over the combined references for at least the same reasons, as discussed above regarding claims 1-3.

As to claims 6-7, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-3”, (office action, page 3, paragraph 5). Applicants note that independent claim 6 also recites at least the distinguishing limitation of “a custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 6, as well as claim 7 which depends from and include the limitations of claim 6, are both patently distinguished and allowable over the combined references.

As to claim 8, this claim depends from and includes the limitations of independent claim 6, and is distinguished from and patentable over the combined references for at least the same reasons, and as discussed above regarding claims 4-5.

As to claims 9-10, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-3”, (office action, page 4, paragraph 1). Applicants note that independent claim 9 also recites at least the distinguishing limitation of “a custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 9, as well as claim 10 which depends from and include the limitations of claim 9, are both patently distinguished and allowable over the combined references.

As to claim 11, this claim depends from and includes the limitations of independent claim 6, and is distinguished from and patentable over the combined references for at least the same reasons, and as discussed above regarding claims 4-5.

As to claims 12-14, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-3”, (office action, page 4, paragraph 3). Applicants note that independent claim 12 also recites at least the distinguishing limitation of “a custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 12, as well as claims 13-14 which depend from and include the limitations of claim 12, are patently distinguished and allowable over the combined references.

As to claim 15, the office action asserts the claim is “composed of the same structural elements that were discussed with respect to the rejection of claims 1”, (office action, page 4, paragraph 4). Applicants note that independent claim 15 also recites at least the distinguishing limitation of “the custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 15 is patently distinguished and allowable over the combined references.

As to claims 16-17, these claims depend from and include the limitations of independent claim 15, and are distinguished from and patentable over the combined references for at least the same reasons, as discussed above regarding claim 15.

As to claims 18-20, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-3”, (office action, page 4, last paragraph). Applicants note that independent claim 18 also recites at least the distinguishing limitation of “the custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed

above. Therefore, applicants submit that independent claim 18 as well as claims 19-20 which depend from and include the limitations of claim 18, are patently distinguished and allowable over the combined references.

As to claims 21-23, these claims depend from and include the limitations of independent claim 18, and are distinguished from and patentable over the combined references for at least the same reasons.

As to claims 24-27, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-4”, (office action, page 4, paragraph 4). Applicants note that independent claim 24 also recites at least the distinguishing limitation of “the custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 24 as well as claims 25-27 which depend from and include the limitations of claim 24, are patently distinguished and allowable over the combined references.

As to claims 28-30, the office action asserts the claims are “composed of the same structural elements that were discussed with respect to the rejection of claims 1-3”, (office action, page 4, paragraph 4). Applicants note that independent claim 28 also recites at least the distinguishing limitation of “the custom channel created by the customer” that the combined references fail to teach or render obvious, as discussed above. Therefore, applicants submit that independent claim 28 as well as claims 29-30 which depend from and include the limitations of claim 28, are patently distinguished and allowable over the combined references.

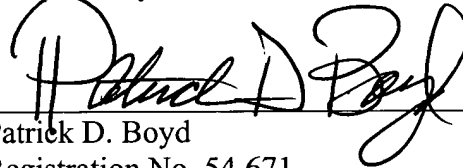
As to claim 31, this claim depends from and includes the limitations of independent claim 28, and is distinguished from and patentable over the combined references for at least the same reasons.

CONCLUSION

In light of the points and arguments set forth herein, applicant respectfully submits that the rejections have been properly overcome in as much as the combined references fail to teach or render obvious applicants' claims, and all claims are allowable as previously presented.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,



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